

## REMARKS

As a preliminary matter, Claims 14 and 15 have been amended to correct for the antecedent basis problems noted by the Examiner.

Claims 1, 5-10 and 13-19 stand rejected under 35 U.S.C. § 102 (b) as being anticipated by EP 1 059 070 (hereinafter EP '070). Applicants respectfully traverse this rejection.

Applicants respectfully submit that EP '070 fails to disclose all of the features of the present invention. More specifically, EP '070 fails to disclose a modular hip prosthesis that includes, *inter alia*, a proximal body and a neck, "wherein the neck is movable with respect to the proximal body, until being locked into position by the locking member," as now defined in amended independent Claims 1, 9 and 16.

One example of an embodiment of the present invention as defined Claims 1, 9 and 16 is shown in Applicants' Figures 1 and 2, which includes neck 16 that is movable with respect to proximal body 14, until being locked into position by locking member 20. In contrast, as shown in Figure 2 of EP '070, neck 3 and proximal body 2 are a single unit, and therefore are not movable with respect to each other, as defined in independent Claims 1, 9 and 16. Accordingly, for at least this reason, Applicants respectfully request the withdrawal of this §102(b) rejection of independent Claims 1, 9 and 16 and associated dependent Claims 5-8, 10, 13-15 and 17-19.

Claims 9, 13 and 15-20 stand rejected under 35 U.S.C. § 102 (b) as being anticipated by United States Patent No. 5,906,644 to Powell. Applicants respectfully traverse this rejection.

Applicants respectfully submit that the Powell reference fails to disclose all of the features of the present invention. More specifically, the Powell reference fails to disclose a modular hip prosthesis that includes, *inter alia*, a locking member “that engages the proximal body,” as defined in amended independent Claims 9 and 16.

One example of an embodiment of Applicants’ invention as defined in Claims 9 and 16 is shown in Applicants’ Figure 1, which includes locking member 20 that engages proximal body 14 (via threads on locking member 20 that engage with the threaded section of proximal body 14). In contrast, in the device of the Powell reference, member 34 (of Figures 1-3) and member 336 (of Figures 31-33), which the Examiner has equated with the claimed “locking member,” do not engage, respectively, member 24 and member 324, which the Examiner has equated with the claimed proximal body. Instead, in the embodiment of Powell’s Figures 1-3, member 34 engages stem 12, and in the embodiment of Powell’s Figures 31-33, member 336 engages stem 312. Accordingly, as all of the features independent Claims 9 and 16 are not disclosed in the Powell reference, Applicants respectfully request the withdrawal of this §102(b) rejection of independent Claims 9 and 16 and associated dependent Claims 13, 15 and 17-20.

Claims 1, 5-10 and 13-19 stand rejected under 35 U.S.C. § 102(e) as being anticipated by United States Patent No. 6692,530 to Doubler et al. Applicants respectfully traverse this rejection.

Applicants respectfully submit that the Doubler et al. reference does not disclose all of the features of the present invention. More specifically, the Doubler et al. reference does not disclose a modular hip prosthesis that includes a “proximal body having a bore with a threaded section,” as defined in amended independent Claim 1. Additionally, the Doubler et al. reference fails to disclose a modular hip prosthesis in which the proximal body is “positioned around the stem,” as defined in amended independent Claims 9 and 16.

One example of an embodiment of the present invention as defined in independent Claims 1, 9 and 16 is shown in Applicants’ Figures 1 and 2, which include proximal body 14. As can be seen in these figures, proximal body 14 includes “a bore with a threaded section” (where the threaded section is configured to mate with the threaded section on locking member 20). Additionally, these figures also show that the proximal body is “positioned around the stem [12].”

In contrast, in the device of the Doubler et al. reference, the Examiner equated the jack screw 20 of Figures 1 and 4-6 with the claimed proximal body. However, as can be seen in Figure 1a of Doubler et al., jack screw 20 does not include “a bore with a threaded section,” as defined in Claim 1. Instead of including threads within a bore, as in Claim 1, the threads on jack screw 20 are external threads. Additionally, jack screw 20 is not “positioned around” the stem 11, as defined in Claims 9 and 16, but is instead positioned *within* the stem.

Accordingly, as all of the features of independent Claims 1, 9 and 16 are not disclosed in the Doubler et al. reference, Applicants respectfully request the withdrawal of this §102(e) rejection of independent Claims 1, 9 and 16 and associated dependent Claims 5-8, 10, 13-15 and 17-19.

Claims 2, 3, 4, 11, 12 and 20 stand rejected under 35 U.S.C. § 103 as being unpatentable over EP '070 in view of United States Patent No. 5,755,800 to O'Neil et al. Claim 3 has been cancelled, without prejudice, thereby rendering this rejection moot with respect to Claim 3. However, with respect to Claims 2, 4, 11, 12 and 20, Applicants respectfully traverse this rejection.

Claims 2, 4, 11, 12 and 20 all depend, directly or indirectly, from either independent Claim 1 or from independent Claim 9 or from independent Claim 16, and therefore include all of the features of either Claim 1 or Claim 9 or Claim 16, plus additional features. Accordingly, Applicants respectfully request that the § 103 rejection of dependent Claims 2, 4, 11, 12 and 20 under EP '070 in view of O'Neil et al. be withdrawn considering the above remarks directed to independent Claims 1, 9 and 11 and also because the O'Neil et al. reference does not remedy the deficiencies noted above.

Finally, Applicants have added new dependent Claims 21 and 22. Applicants respectfully submit that new Claims 21 and 22 are allowable for at least the reasons discussed above with regard to the allowability of associated base Claims 9 and 16.

For all of the above reasons, Applicants request reconsideration and allowance of the claimed invention. The Examiner is invited to contact the undersigned attorney if an interview would expedite prosecution.

Respectfully submitted,

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